

## Message Text

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1251

INFO AMEMBASSY MANILA

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E.O. 11562: GDS

TAGS: PFOR, ETRD, JA, RP

SUBJECT: FONOFF VIEW ON RENEGOTIATION OF JAPAN-PHILIPPINES TREATY

REF: A. MANILA 10889, B. MANILA 11133

SUMMARY: SINCE SIGNALS FROM MANILA HAVE BEEN CONFUSING, JAPANESE ARE UNCLEAR ABOUT PHILIPPINES' DESIRES BOTH ON FORM AND SUBSTANCE IN A NEW TREATY OR TREATIES TO REPLACE THE CURRENT TREATY OF AMITY, COMMERCE AND NAVIGATION. IN ADDITION TO REDRESSING POINTS OF "IRRITATION", JAPANESE ALSO VIEW MANILA'S ABRUPT DECISION TO TERMINATE THE CURRENT TREATY IN THE CONTEXT OF THE PHILIPPINES MOVING CLOSER TO THE OTHER ASEAN STATES AND TOWARD THE NON-ALIGNED. END SUMMARY.

1. REFTELS HAVE ACCURATELY PORTRAYED JAPANESE IRRITATION AND PUZZLEMENT OVER THE ABRUPT INDICATION THAT MANILA WISHES TO TERMINATE THE PRESENT TREATY OF AMITY, COMMERCE AND NAVIGATION BETWEEN JAPAN AND THE PHILIPPINES. FONOFF SECOND SE ASIA DIVDIR TANINO SAID THE FONOFF WAS PARTICULARLY IRRITATED BY CLUMSY MANNER MANILA FIRST INFORMED TOKYO OF ITS INTENTIONS--BY THE LETTER FROM FONSEC ROMULO DELIVERED TO THE JAPANESE CHARGE'S HOME. JAPANESE ARE ALSO QUITE CONFUSED ABUT WHAT

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MANILA WANTS. INITIALLY, THE FILIPINOS APPEARED TO HAVE

IN MIND THREE TREATIES TO REPLACE THE ORIGINAL--ONE EACH FOR TRADE, TECHNOLOGICAL TRANSFERS, AND TAXATION (TO AVOID DOUBLE TAXATION). SUBSEQUENTLY, AS MANILA REPORTED, FONSEC ROMULO INDICATED THAT THE GOP WAS INTERESTED IN A TREATY MODELED AFTER THE JAPAN-AUSTRALIA TREATY. TANINO PERSONALLY REGARDS THE TREATY WITH AUSTRALIA TO BE INAPPROPRIATE FOR TIES WITH THE PHILIPPINES. SHOULD JAPAN CONCLUDE SUCH A "BASIC TREATY" WITH THE PHILIPPINES, TOKYO WOULD ALSO HAVE TO BE READY TO CONCLUDE SIMILAR TREATIES WITH THE OTHER ASEAN STATES, WHICH, AT LEAST NOW, IS NOT DESIRED.

2. AS FOR SUBSTANCE, THE JAPANESE HAVE PERCEIVED THREE AREAS IN WHICH MANILA APPARENTLY SEEKS ADJUSTMENT. (A) CURRENT TREATY PROVIDES MOST-FAVORED-NATION (MFN) STATUS TO JAPAN; SINCE THE ASEAN STATES ARE MOVING TOWARD LOWER INTRAMURAL TARIFFS, MFN STATUS MAY EVENTUALLY BE RULED OUT FOR JAPAN. (B) MANILA WANTS TO INCORPORATE IN THE PROPOSED NEW TREATY JAPANESE RECOGNITION OF THE "HISTORICAL WATERS" CLAIMED BY THE PHILIPPINES. TANINO EXPLAINED THAT AS A RESULT OF THE 1898 TREATY TRANSFERRING THE PHILIPPINES FROM SPANISH TO US CONTROL, A SIZEABLE AREA OF THE HIGH SEAS AROUND THE PHILIPPINES WAS ACCORDED SPECIAL STATUS. JAPAN, TANINO SAID, CANNOT RECOGNIZE THIS CLAIM. (C) CURRENT TREATY PROVIDES RECIPROCALLY "NATIONAL TREATMENT" FOR JAPANESE AND PHILIPPINES FLAG CARRIERS IN EACH OTHERS PORTS. MANILA SEEMINGLY WANTS TO CHANGE THIS TO MFN STATUS. (D) FINALLY, DOUBLE TAXATION SHOULD BE ELIMINATED, A POINT ON WHICH THE JAPANESE BUSINESS COMMUNITY AT LEAST AGREES.

3. AS REF B REPORTED, JAPAN IS WILLING TO RENEGOTIATE THE TREATY IF MANILA WISHES. TOKYO SEEKS THE PHILIPPINES DESIDERATA, WHICH THEY DO NOT EXPECT TOO QUICKLY.. QUESTION OF COVERAGE AFTER EXPIRATION OF TREATY JANUARY 26, 1977, AS RESULT OF ROMULO'S LETTER, MUST BE DEALT WITH THROUGH SOME METHOD SUCH AS THOSE SUGGESTED IN REF B. TANINO NOTED IN STRICT CONFIDENCE, HOWEVER, THAT TRADE, INVESTMENT, AND OTHER ECONOMIC CONFIDENTIAL

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RELATIONS SHOULD NOT BE SERIOUSLY AFFECTED EVEN WITHOUT A TREATY, AS THEY HAD NOT BEEN BETWEEN 1960 WHEN THE TREATY WAS SIGNED AND 1973 WHEN MARCOS TOOK ADVANTAGE OF HIS EMERGENCY POWERS AND RATIFIED THE CONTROVERSIAL TREATY. TANINO SAID IT WILL REQUIRE AT LEAST A YEAR FOR JAPAN TO RENEGOTIATE AND HAVE THE DIET RATIFY A NEW TREATY.

4. MANILA, PRESUMABLE ROMULO, POINTED OUT TO THE

JAPANESE THAT THIS WAS NOT AN ISOLATED ACTION AGAINST JAPAN. THE GOP IS REEXAMINING ALL ITS INTERNATIONAL COMMITMENTS AND, FOR EXAMPLE, IS ALSO RENEGOTIATING ITS TREATY WITH THE US AND TRADE AGREEMENTS WITH THE REPUBLIC OF KOREA AND WITH THE FEDERAL REPUBLIC OF GERMANY. THUS, TANINO SEES MANILA'S LETTER OF TERMINATION OF THE JAPAN-PHILIPPINES TREATY AS PART OF MANILA'S MOVEMENT TO CLOSER RELATIONS WITH THE OTHER ASEAN STATES AND ALSO TOWARD THE NON-ALIGNED.

5. COMMENT: DESPITE MANILA'S BUNGLING, WE ASSUME OVERALL BI-LATERAL RELATIONS WILL NOT BE SERIOUSLY HARMED.

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